

April 11, 2013

Mr. Ford called the workshop meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Open Public Meetings Act Notice: I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by our notices dated January 17, 2013, as published in the Hunterdon County Democrat and January 15, 2013, as published in the Courier News. A copy of the notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Clerk.

Members Present: Ms. McBride, Mr. Nace, Mr. Ryland, Mr. Kastrud (7:10 p.m.), Mrs. Church, Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Bischoff, Mr. Walchuk, Mrs. Corcoran, Mr. Badenhausen

Others Present: Atty. Mark Anderson, Carl Hintz, Atty. Walter Wilson, Wayne Ingram, Peter Streletz

Approval of Minutes: Mr. Kirkpatrick made a motion to approve the minutes of the March 28, 2013 meeting. Ms. McBride seconded the motion.

Vote: All Ayes, No Nays, No Abstentions, Motion Carried

Molnar: Informal: Block 12, Lot 13.01, 92 Route 173: Mr. Ford said this was an informal discussion and no testimony would be presented. Atty. Wilson, representing applicant, acknowledged that nothing discussed tonight would be binding. Mr. Wilson gave a brief overview of the application and site. Applicant had appeared before the Board at their March 28, 2013 meeting and asked to discuss some proposed changes tonight. Applicant's Engineer Wayne Ingram reviewed testimony from the previous meeting. Mr. Kirkpatrick asked when a C/O was last issued for the previous building. Atty. Wilson said probably 1994. Mr. Kirkpatrick asked how applicant calculated the amount of water and septic use. Mr. Ingram said it was based on commercial use. He said the proposed use would probably consume approximately two-hundred gallons per day. Mr. Nace asked when the Board would see a drawing of the building. Atty. Wilson said that would be provided to the Board at another meeting. A Morton-type building is proposed. Mr. Nace asked if there was space between the building and the road for landscaping. Mr. Ingram said there was about eight feet between the parking and the right-of-way line and beyond that there be another ten to twelve feet of lawn area. Mr. Kastrud had a question about variances. Would any of the variances be reduced or eliminated if the building size was reduced? Mr. Ingram said shrinking the building by one-thousand feet would eliminate a variance. Mr. Molnar plans to occupy approximately one-half of the building for his business. Two tenant spaces are proposed for the remainder of the building. No outside storage is proposed.

Mayor McBride asked if removing a part of the sixteen-foot truck-drive in area would be within Code requirements. Mr. Ingram said the side yard would be in compliance with the Code. However, it would not comply with front yard setback requirements. He also said the change might interfere with the Highland's regulations regarding pre-existing impervious coverage.

Mr. Ingram said even if applicant did not maximum the 125% of the impervious surface coverage, the proposed development would have to be on that which pre-existed. Mr. Kirkpatrick said there are other development alternatives available that would comply with Highlands' requirements and be closer to complying with Township requirements and meet the immediate needs of the site. Mr. Ingram said the side yard requirements would be addressed; however the front yard setback would not be met. Parking would still have to be in front of the building. Shrinking the building would eliminate certain variances or make them closer to conformance. Mr. Ingram said applicant had reduced the building from a previous design. Mayor McBride asked if consideration had been given to a landscaping plan that would shield the parking area. Mr. Ingram said applicant would attempt to screen the property with low-growing shrubs. The driveway access and sight easements would limit landscaping. Mr. Hintz noted the tightness of the site for trucks traversing the property. Mr. Hintz asked what the Highlands might bend on, if anything. Mr. Ingram indicated there is very little flexibility. He showed the Board the previous plan that was rejected by the Highlands Council. Mr. Kirkpatrick said the Board would want something closer to Ordinance requirements and that would have been accomplished with the previous plan.

Mr. Ingram asked if there was anything applicant could do from a planning and environmental standpoint to say to the Highlands Council that this is not desirable. Mr. Kirkpatrick said the Board could reject the current plan and would need to seek an individual permit. Atty. Wilson said applicant's course would be, from an exhaustion of remedies standpoint, to apply for an individual permit which they were told would be denied by the Highlands Council. He said it would be wonderful if that permit was not denied. Mr. Kirkpatrick said he did not see how applicant could meet requirements of the Ordinance with the current proposal. Mr. Ford concurred. He thought the previous plan might be approved. Mayor McBride said removing the proposed lease area could make the plan feasible. Mr. Ingram asked if the Board might consider a slight reduction in the building setback if the size of the structure was reduced. Mr. Kirkpatrick asked the amount of impervious surface coverage there would be if the contractor/trade area was eliminated, the eastern most parking was rotated 90 degrees, the driveway would be in the proximity of the sign and the building entrances were on the east side of the building. Mr. Ingram said they would be fortunate to have 100% impervious surface coverage.

Mr. Kirkpatrick asked if there were a minimum number of parking spaces needed for applicant's use. Atty. Wilson said very few spaces would be needed for that use; however things could change in the future. Mr. Nace asked for reaffirmation that the proposed structure was a Morton building, industrial style. Atty. Wilson said an architect had added features that would make it more pleasing to the eye. Mr. Kastrud mentioned parking underneath the building. Atty. Wilson said it would not be practical for the proposed medical equipment repair business. Mayor McBride asked if the truck-drive-in area was a loading dock. Mr. Ingram replied in the affirmative. Ms. McBride said it would be nicer to have that in the side yard. Mr. Kirkpatrick said he could see the light industrial space roughly in the same location and designed as a rectangle, with one leased space for a contractor, rotating parking on the easterly side of the building, eliminating parking in front of the building and turning the area into a lawn and landscaped area. Also included should be a storm water management plan demonstrating that there would be the same or a lesser amount of pollutants discharged than with the original use.

He did not think the proposed building and configuration would be approved. Atty. Wilson asked if there could be some parking in the front yard. Mr. Kirkpatrick did not want parking in front of the building for safety and aesthetic reasons. Atty. Wilson asked about a thirty-five foot setback for the building. Mr. Kirkpatrick did not see that working. Other structures nearby are much further back from the road. A question was asked about expanding the impervious surface coverage to the east. Mr. Ingram was amenable that idea.

Discussion Re: Re-Exam Report and Updates/Revision to MP – Land Use Code Amendment Re:

Principal Buildings/Uses: Carl Hintz displayed a Map that shows easements, preserved open space and preserved farmland. Mr. Hintz, Mayor McBride and Committeeman Bischoff had reviewed the map and concerns were raised about the inappropriate zoning of some properties. Mr. Hintz referenced the Milligan Farm site. The bulk of that property is dedicated as open space and is in the MR (multi-family residential) zone. He said the only portion of the property that would ever be developed as MR is the area designated for affordable housing. Therefore, Mr. Hintz said the bulk of the property should be rezoned as, perhaps, CM (conservation management) or P (parkland). He will confer with Atty. Jost about conditions that may have been placed on the property. The farmhouse is zoned RM, however, it does not meet the 20-acre lot size requirement. That site could be zoned CR (country residential). A concern was raised about the possibility that could be considered spot zoning. Mr. Hintz indicated a Re-examination of the Master Plan (MP) should be done to discuss a zone change. If the Board determined the zone should be changed the recommendation to adopt an amendment to the Land Use Code would be made to the Township Committee. Notice of required Hearings would be published. Mr. Ford asked if the Re-examination of the MP would be limited to the above-mentioned parcels. Mr. Hintz said the Quarry ((Q) zone should be discussed. Mayor McBride mentioned older sections of the MP and said Atty. Jost referenced MLUL 40:55D-28 regarding the sections of the Plan that are required. Ms. McBride said there are many sections of the MP that are not required. Mr. Hintz said the Circulation Plan that was based upon traffic studies of two to three decades ago. He said that Plan should probably be deleted.

Mr. Kirkpatrick said any portion of the MP that is obsolete and not required by the MLUL should be deleted. Documents that are required to be in the MP and have not been adopted should be discussed as part of a Re-examination report. A Public Hearing would be held to formally adopt and incorporate required documents in the MP. Mr. Ford asked about potential implications with Highland Conformance issues. Mr. Hintz did not think there would be any issues. Mayor McBride thought the Highlands might help with updates if the Township conformed. Mr. Hintz said the Highlands would provide \$2,500.00 for the Re-examination report if the Township conformed. Ms. McBride said the Storm Water Management Report and the Natural Resource Inventory Plan need to be included in the MP. Also mentioned was the Waste Water Management Plan. Mr. Hintz understood that the Highlands would fund that Plan.

However, there is uncertainty about the status of the Plan at this time. Mr. Ford asked if there were other issues to address. Mr. Hintz did not believe there were; however, he re-emphasized the changes to be made to the zoning of the above-listed properties. Mr. Kirkpatrick referenced lots by the Spruce Run Reservoir. He said some of the lots by the Reservoir are zoned Institutional and at least one lot has a single-family dwelling. That lot could be zoned Watershed Management (WM). Mr. Kirkpatrick indicated it might not be appropriate to have the lots not directly related to the Reservoir in the Institutional Zone.

Mr. Ford asked to revisit the Milligan Farm zoning. He understood that is presently being farmed. Mayor McBride said the Township plans to continue farming the property indefinitely. Mr. Ford asked if changing the zoning to Parkland would create any difficulties. Mr. Kirkpatrick did not believe there would be a problem. Mr. Ford asked if the Board needed to take any action. Mr. Hintz did not believe action was required. Mr. Kirkpatrick thought the necessary changes should be acted upon soon. Mr. Hintz suggested another discussion at a workshop.

Land Use Code Amendment Re: Principal Buildings/Uses: Atty. Maziarz had prepared two memos on the subject. Mr. Kirkpatrick said there have been an increasing number of requests to have multiple uses in a single building and current regulations only allow for a single use in a building. Atty. Maziarz proposed an amendment to 30-5.4 about not having more than one principal use except in non-residential zones. She received comments about specifying which zones. Ms. Maziarz then specified zones, Institutional (I), Village Commercial (VC), Planned Commercial (PC), Office Research (OR) and Professional Office (PO). She also said Quarry (Q) could be added. Changing the definition of accessory to accommodate a use that would be located on a site, i.e. Research/Laboratory could also be considered. Atty. Maziarz also said the definition of Minor Site Plan should be addressed. An amendment to the Checklist for a Minor Site Plan would be required. Two criteria for a Minor Site Plan would include a change in use involving no building construction other than interior modification or interior structural alteration. Two additional principal permitted uses would be allowed in an existing structure providing that no additional off street parking is proposed and the proposal does not implicate an increase in water consumption or waste water generation. Mr. Kirkpatrick thought that if an applicant could demonstrate there would be no increase in parking requirements, water consumption, wastewater or electrical consumption, the application could be reviewed by the zoning officer who could issue a certificate. If those criteria could not be met then application would have to be made for a Minor Site Plan. Atty. Maziarz was concerned about delegating authority to the zoning officer that the Board is not allowed to do. She emphasized the importance of the Board having control. It was decided to prepare a Minor Site Plan Checklist. Atty. Maziarz will confer with Mr. Clerico about the Checklist. She asked of other criteria for a Minor Site Plan. Mr. Kirkpatrick said the number of parking spaces, expansion of building and lot line adjustment should be included. An application that would create disturbance of land, i.e. a solar installation would require a Major Site Plan. Solar panels on a roof would not be considered a Major Site Plan. Ms. Maziarz said a lot line adjustment must come before the Board as a Minor Subdivision. Mr. Ford mentioned trip generation. A discussion was held regarding Quarry being included in the zones of the proposed amendment.

Atty. Maziarz said a change from one permitted use to another permitted use should be included in the definition of a Minor Site Plan. She will incorporate changes and other potential revisions and send updates to the Board for their comments.

Rolling Hills/P.S. Construction: Block 22, Lot 27, Race Street: Memorialization of Resolution: A motion to approve the Resolution was made by Mr. Kirkpatrick and seconded by Mr. Nace. Mayor McBride had a comment about the Road name Glacier Way. She said Patricia Lingelbach, Union Township Historical Society President, contacted her about the fact that the Society had not been notified about the name. Ms. McBride said they would be notified in the future. Peter Streletz, P.S. Construction, said that name was provided as a result of a Phase II Investigation that indicated a glacier had created the rolling hills on the property.

Vote: Ayes: Mr. Kirkpatrick, Mr. Nace, Ms. McBride, Mrs. Church, Mr. Ford

Mr. Kirkpatrick asked that the Historical Society be made aware of all applications that come before the Board and provide any comments or suggestions to the Board.

Chicken Keeping Ordinance: Mayor McBride gave an overview of the request from the Township Committee asking the Board to review and recommend to the Committee to adopt the proposed ordinance. Mr. Kirkpatrick mentioned including other small livestock, i.e. rabbits, small goats and pot belly pigs; however, he would be satisfied with just the chickens. Ms. McBride said our current Ordinance allows fifty fowl per acre on a three-acre lot. It was suggested that the number off fowl per acre on lots of up to three acres be limited to five. Mr. Ford thought that was overly restrictive. MR. Kirkpatrick thought that fifteen chickens was a good number.

The proposed ordinance would allow a maximum of six chickens per acre and ten chickens on a residential lot of one or more but less than three acres. Mayor McBride thought the proposed ordinance should be for residential lots of less than farm size. This would not contradict the Right-to-Farm Act. Ms. McBride said one Committeeman was concerned about having a minimum lot size for the six chickens. She didn't feel comfortable with the limitation because someone in Jutland or Pattenburg might want to keep chickens and the lots may be less than an acre. Mr. Ford mentioned that chicken coops or runs could not be located within twenty-five feet of any dwelling on an adjoining lot and that should alleviate that concern. Mrs. Church said the selling of eggs should be prohibited. Mr. Kirkpatrick emphasized that a child raising chickens and selling eggs was able to get a lesson in economics, as well as learning the source of food. The proposed ordinance should eliminate the word poultry and fifty fowl per acre from Section 30:5.5 Use Regulations, Subsection a.1 (c) concerning Livestock. Mr. Ford said the ordinance should state that a maximum of six chickens on a residential lot of up to one acre and a maximum of ten chickens on a larger residential be allowed. More than ten chickens would require five or more acres.

Mr. Ford asked for a motion to recommend to the Township Committee to adopt the Ordinance, with the above-listed changes. It would not be inconsistent with the Master Plan. Mrs. Church made the motion. It was seconded by Mr. Kastrud.

Vote: Ayes: Mrs. Church, Mr. Kastrud, Ms. McBride, Mr. Nace, Mr. Ryland, Mr. Ford, Mr. Kirkpatrick

Atty. Maziarz will prepare the letter to the Township Committee.

Correspondence: Mr. Ford said the letter from the Town of Clinton dated March 27, 2013 indicated there is insufficient capacity to supply water to Union Township.

Motion to Adjourn: Mr. Kirkpatrick made a motion to adjourn. It was seconded by Mr. Nace (9:15 p.m.)

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary